

REMARKS

Claims 1-31 are presently pending. Claims 1, 11, and 21 have been amended. None of the claims has been cancelled. Therefore, claims 1-31 remain pending in the present application.

Request for Continued Examination

The Applicants are concurrently filing a Request for Continued Examination (“RCE”) that accompanies this response. Pursuant to Manual of Patent Examining Procedure, Eighth Edition (“MPEP”), Incorporating Revision No. 7, July 2008, § 706.07(h)(X), p. 700-102, the filing of this RCE should be treated as a request to withdraw the appeal and reopen prosecution of the application before the Examiner.

Claim Rejections – 35 U.S.C. § 103

Claims 1-2, 4-6, 8-12, 16-17, 21-25, and 26-30 were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent Application Publication No. 2003/0130033 to Loose (“Loose”) in view of U.S. Patent No. 6,217,448 to Olsen (“Olsen”). Claims 3 and 31 were rejected under § 103(a) as being obvious over Loose in view of Olsen further in view of U.S. Patent No. 6,648,757 to Slomiany et al. Claim 7 was rejected under § 103(a) as being obvious over Loose in view of Olsen further in view of U.S. Patent No. 5,876,284 to Acres et al. Claims 13-15 and 20 were rejected under § 103(a) as being obvious over Loose in view of Olsen further in view of U.S. Patent No. 7,008,324 to Johnson et al. and U.S. Patent Application Publication No. 2003/0186739 to Paulsen et al.

Independent Claims 1, 11, and 21

As amended, independent claim 1 recites displaying a visual bonus indicator on a display of a gaming machine, the “displaying indicating to a player that a **probability** exists of a bonus award being awarded on said first gaming machine” (emphasis added). Claim 1 further recites, “terminating said display of said visual bonus indicator on said first display **during the bonus event** without awarding a bonus award to said player of said first gaming machine, said termination indicating to said player that there is no longer a probability of the bonus award being awarded on said first gaming machine” (emphasis added).

As amended, claim 11 recites displaying a visual bonus indicator on a display “said displaying indicating to a player a **likelihood** of a bonus award being awarded on said first gaming

machine” (emphasis added). Claim 11 further recites “terminating said display of said visual bonus indicator on said first display of said first gaming machine **during a bonus event** without awarding a bonus award to said player of said first gaming machine, said terminating indicating to said player of said first gaming machine that **no probability exists** of said bonus award being awarded on said first gaming machine” (emphasis added).

Similarly, independent claim 21 recites that the visual bonus indicator controller is adapted to terminate display of the visual bonus indicator on certain ones of said displays “**during a bonus event** without awarding a bonus award to said player of said gaming machines having said certain ones of said displays thereon, said display of said visual bonus indicator indicating to a player a **probability** of a bonus award being awarded on a gaming machine upon which it is displayed, said terminating display of said visual bonus indicator indicating to said player that there is no longer a **probability** of said bonus award being awarded on said gaming machine upon which it was displayed” (emphasis added).

The Applicants submit that a *prima facie* case of obviousness has not been presented with respect to independent claims 1, 11, and 21 because neither Loose nor Olsen discloses, teaches, or suggests the features set forth in claims 1, 11, and 21. Specifically, neither Loose nor Olsen discloses terminating the display of the visual bonus indicator on a first display of a first gaming machine “**during [a] bonus event without awarding a bonus award** to said player of said first gaming machine,” said termination indicating to the player that the **probability** of the bonus award being awarded on said first gaming machine no longer exists, as in claims 1 and 11. Likewise, neither Loose nor Olsen discloses terminating display of a visual bonus indicator on certain displays “**during a bonus event without awarding a bonus award** to said player of said gaming machines having said certain ones of said displays thereon, said display of said visual bonus indicator indicating to a player **a probability** of a bonus award being awarded on a gaming machine upon which it is displayed,” as in claim 21. Moreover, neither Loose nor Olsen discloses “said terminating display of said visual bonus indicator indicating to said player that there is no longer a probability of said bonus award being awarded on said gaming machine upon which it was displayed”, as in claim 21.

First, the Applicants note that the claims have been amended to clarify that the display of the visual bonus indicator is terminated **during the bonus event**. Thus, the Examiner’s statement in the

Advisory Action that the “Applicant asserts but does not claim that the termination occurs during play of a single bonus game in the bonus round and the indicator is terminated before the ending of said single game” is no longer valid. *See* Advisory Action dated October 2, 2008.

Accordingly, it should be noted that the graphical set of hands displayed in Olsen cannot be equated with the visual bonus indicator (or portion thereof) of the present claims because display of the set of hands of Olsen is not “terminated . . . during [the] bonus event” as in the present claims. Furthermore, it would not be obvious to remove or “terminate” the graphical set of hands during the bonus mode in Olsen. Displaying the set of hands in an up position or a down position indicates the eligibility status of a player in a bonus mode. Olsen, col. 6, ll. 43-45, 53-54. The purpose of the set of hands is to improve upon the clarity of prior art games, which “relied on lights and text messages” to convey whether a player was eligible for a bonus mode, “which may be unclear to participants.” *Id.*, col. 6, ll. 47-49. Thus, to “terminate” display of Olsen’s set of hands during Olsen’s bonus mode would render Olsen unsatisfactory for its intended purpose because it would be unclear to participants and onlookers whether certain gaming machines were eligible for the bonus mode. *See* M.P.E.P. § 2143.01(V).

Furthermore, the Office Action acknowledges that “Loose is silent on said displaying indicating to a player that a probability exists of a bonus award being awarded on said first gaming machine”. Office Action, p. 4. The Applicants respectfully submit that Olsen is also silent regarding this element. Because, as explained above, Olsen’s hands open graphic does not “terminate” during the bonus mode, the Applicants assume, *arguendo*, that the visual bonus indicator of claims 1, 11, and 21 is being likened to Olsen’s hot potato graphic. Olsen’s display of a hot potato does not, however, indicate that a **probability** exists of a bonus award being awarded but, rather, that a **certainty** exists of the bonus award or bonus opportunity being awarded. For example, Olsen states, “When the lamp L is lit 50, that player holds a hot potato C in hands 20c in display D, as the player **is entitled to receive a multiplied payoff** on a designated payoff won in the conventional game play.” Olsen, col. 8, ll. 28-31 (emphasis added). Olsen further states, “When a selected machine S holds a hot potato 20c in display D, the current underlying game completes and any payoff received from the game **is increased** by the bonus multiplier BM” *Id.* at col. 9, ll. 3-6 (emphasis added).

The Office Action also erroneously asserts that Olsen discloses “terminating said display of said visual bonus indicator on said first display, without awarding a bonus award to said player of said first gaming machine, said termination indicating to said player that there is no longer a probability of the bonus award being awarded on said first gaming machine.” Office Action, p. 5. The Office Action states that such termination is disclosed by Olsen’s “hands down display where there is no longer a probability to win a bonus.” *Id.* (citing Olsen, col. 6, ll. 34-63). However, a “hands down” depiction in Olsen is displayed to a player **before** the bonus mode begins, indicating to the player that he or she is “Not Eligible” for the bonus mode. Olsen, col. 6, ll. 40-45. Thus, a hands down depiction does **not** indicate to a player that there is no longer a probability of the bonus award being awarded, as in the present claims. Rather, the hands down depiction of Olsen, which does not terminate during the bonus mode, indicates that that player **was never eligible** for the bonus mode in the first place.

Accordingly, the Applicants believe that independent claims 1, 11, and 21 are allowable. Claims 2-10, 12-20, and 22-31, which depend on claims 1, 11, or 21, are believed to be allowable for at least the same reasons.

Conclusion

It is the Applicants' belief that all of the claims are now in condition for allowance and action towards that effect is respectfully requested. The Applicants respectfully request that a timely Notice of Allowance be issued in this case. If there are any matters that may be resolved or clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at the number indicated.

This Amendment is being submitted with the fee for a Request for Continued Examination. It is believed that no other fees are presently due; however, should any fees be required, the Commissioner is authorized to deduct the fees (except the issue fee) to Nixon Peabody LLP, Deposit Account No. 50-4181, Order No. 247079-000237USPT.

Respectfully submitted,

Dated: February 9, 2009

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